

Changes to the UK PSC regime What do AIM companies need to do now?



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In order to comply with the Fourth Money Laundering Directive, the current PSC regime has now been extended to include entities admitted to trading on UK prescribed markets such as the AIM market of the London Stock Exchange and the NEX Exchange Growth Market. Our corporate team have considered what these entities should be doing to comply with the PSC regime.

Background

The persons with significant control (PSC) regime has changed to meet the requirements of the Fourth Money Laundering Directive (2015/849/EU) (Directive).

The UK, like all member states, had until 26 June 2017 to make the necessary changes to its domestic legislation to comply with the requirements of the Directive. The relevant regulations were published just in time to meet this obligation.

One of the key changes made by the Directive is to expand the range of entities that now fall within the scope of the PSC regime to include entities admitted to trading on prescribed markets such as the AIM market of the London Stock Exchange and the NEX Exchange Growth Market.

Entities admitted to trading on a UK prescribed market (such as AIM) have until 24 July 2017 to comply with the UK PSC requirements. It is important that relevant companies start collating the necessary PSC information now so they are in a position to comply with the extended PSC regime.

Our previous briefing note on the anticipated changes to the PSC regime can be found [here](#).

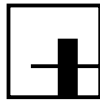
This briefing note refers to UK regulated AIM companies however the same obligations to apply to other entities admitted to trading on a UK prescribed market which now fall within scope of the UK PSC regime (such as the NEX Exchange Growth Market).

Why does the PSC regime now apply to AIM companies?

When the UK PSC regime was introduced on 6 April 2016, there was an exemption for entities which are already subject to DTR5 of the Financial Conduct Authority's Disclosure Guidance and Transparency Rules which includes UK companies listed on the main market of the London Stock Exchange together with those admitted to trading on a prescribed market such as AIM and the NEX Exchange Growth Market.

However, the Directive only expressly exempts companies with shares admitted to trading on a regulated market. Entities admitted to trading on a prescribed market such as AIM or the NEX Exchange Growth Market therefore now fall within the scope of the UK PSC regime.

The Directive continues to exempt entities with voting shares admitted to trading on a regulated market in an EEA state (including the main market of the London Stock



Exchange) or on certain specified markets in Japan, Switzerland, Israel and the USA (a full list of which is contained in Schedule 1 of the Register of People with Significant Control Regulations 2016).

The requirement to comply with the UK PSC regime is a new obligation for AIM companies and sits alongside existing disclosure and transparency requirements including DTR5 and AIM Rule 17.

The new requirements for AIM companies at a glance

The key requirements for AIM companies are that:

- from 24 July 2017, all AIM companies should have a PSC register (which they can elect to maintain at Companies House);
- by 7 August 2017, AIM companies should provide Companies House with the prescribed PSC information; and
- from 24 July 2017, if any relevant PSC information changes, the PSC register maintained by the company must be updated within 14 days of the change and Companies House must be notified of the relevant change within 14 days of the company updating its own register.

What should an AIM company include on its PSC register?

AIM companies must identify:

- individuals who have “significant control” over the company (PSCs); and
- legal entities who are both “relevant” and “registerable” in relation to the company (RRLEs).

Our previous briefing note available [here](#) contains detailed guidance on PSCs, RRLEs and other aspects of the PSC regime which is now relevant for AIM companies although note that since that briefing note was published a Scottish limited partnership and certain Scottish general partnerships can now be RRLEs.

Who is a PSC?

A PSC is an individual who meets one or more of the following conditions in relation to the company:

1. directly or indirectly holds more than 25% of the shares in the company;
2. directly or indirectly holds more than 25% of the voting rights in the company;
3. directly or indirectly holds the right to appoint or

remove the majority of the board of directors of the relevant company;

4. otherwise has, or has the right to exercise, significant influence or control over the company;
5. holds the right to exercise, or actually exercises, significant influence or control over the activities of a trust or firm, which is not itself a legal entity, but would itself satisfy any of the first four conditions if it were an individual.

What is a RRLE?

A legal entity must be put on the PSC register if that legal entity is both ‘relevant’ and ‘registerable’ in relation to the company. An entity will be relevant if it meets one or more of the PSC conditions noted above and:

- that legal entity holds its own PSC register (that is, is a UK incorporated company (that is not listed on the main market), UK LLP, *societas europae*, Scottish limited partnership or, in some cases, a Scottish general partnership); or
- it has voting shares admitted to trading on a regulated market in the UK or EEA (other than the UK) or on specified markets in Switzerland, the USA, Japan and Israel.

An entity is then registrable in relation to that company if it is the first relevant legal entity in the company’s ownership chain.

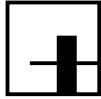
Once the company has identified a RRLE, the company is not then required to look further up its ownership chain to identify any indirect interests held via that RRLE, that is to say, it does not need to identify the owners of the RRLE.

What should AIM companies do now?

All AIM companies must take reasonable steps to identify any PSCs and RRLEs and this process should now be under way.

The PSC register can never be empty. Therefore, if, on 24 July 2017, the relevant AIM company is still investigating whether there is a PSC/ RRLE in relation to it then a prescribed statement to this effect must be entered into their PSC register. There are various different statements which may be entered into the PSC register, depending on the exact circumstances and Annex 2 of the BEIS guidance available [here](#) provides the wording that should be used in each case. This should then be updated when there is (and in any event within 14 days of) a change in situation.

AIM companies and NEX Exchange Growth Market companies have until 14 days after 24 July 2017 (that is until



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7 August 2017) to file information in relation to their PSCs / RRLEs with Companies House. This can be done using the relevant Companies House forms PSC01 – PSC09. If the company has not completed its investigations by 7 August then it is still required to notify Companies House of the status of its investigations using the appropriate wording set out in Annex 2 of the BEIS guidance noted above.

How often does this information require to be updated?

AIM companies should update their PSC registers within 14 days of any change in the PSC/ RRLE of the company occurring (as noted above, the company should still notify

Companies House if it has not completed its relevant investigations within this period). AIM companies should notify Companies House of the changes within 14 days of any update to the register.

Failure to comply with the PSC requirements is a criminal offence which could result in a fine or imprisonment (or both).

Please get in touch with your usual contact at Shepherd and Wedderburn LLP should you require any further information or assistance with these changes.

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